



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,862	11/05/2003	Michael Resterhouse	FFC-001096 P2	7776
30981	7590	04/25/2005	EXAMINER	
King & Jovanovic, PLC 170 College Avenue SUITE 230 HOLLAND, MI 49423			PETERSON, KENNETH E	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 04/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/701,862	RESTERHOUSE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Kenneth E Peterson	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 10 March 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) 5-7, 12 and 13 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-4 and 8-11 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8mar04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

Art Unit: 3724

1. Claims 5-7,12 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 10 March 05.

2. The disclosure and claim 8 are objected to because it is inappropriate to call element 41 a "handle member", since it is not handled. The term "bar" would be acceptable. Also, at the end of claim 8, the term "the slot of the lower surface of the at least one clamp" lacks proper antecedent basis.

Appropriate correction is required.

3. The abstract of the disclosure is objected to because it is over 150 words.

Correction is required. See MPEP § 608.01(b).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hirao et al.'310, who shows a separator with all of the recited limitations including a frame (figure 1), a slotted clamp (70), a clamp actuator (112), a blade (126) and a blade actuator (28).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirao et al.'310, who shows a separator with most of the recited limitations.

In regards to at least claims 2-4 and 9-11, Hirao's blade is not shown in detail, so it is not known if it has a concave blade surface. Examiner takes Official Notice that it is well known for traversing cutters to having concave blade surfaces for cutting in either direction. Examples of this are the patents to King '169 (see figure 3) and Eger '842 (semi-circular cutting edge in figure 5). Additional examples can be provided if needed. It would have been obvious to one of ordinary skill in the art to have modified Hirau by employing a cutter having opposed concave or semi-circular cutting edges, as is well known and taught by Eger and King, in order to keep the workpiece vertically centered in the slot.

In regards to at least claims 8-11, Hirao's clamp actuator and "handle member" are not pivotable. However, Examiner takes Official Notice that in the art of clamping separators, it is old and well known to have a clamp be both pivotal and slidable on the frame, and for the actuator to have two pivot junctions. An example of this is the patent to Lamson '380, who shows a slotted clamp (28) that has a "handle member" (88) that slides on the frame (45) and can pivot, and also shows a clamp actuator (30) that is pivotally connected at one end (31) to the frame and at another end (30') to the handle

Art Unit: 3724

member. It would have been obvious to one of ordinary skill in the art to have modified Hirao to employ a clamp that is pivotal and slidable on the frame, and for the actuator to have two pivot junctions, as is well known and taught by Lamson, in order to simplify the device (no hydraulics needed) and therefor decrease costs.

8. Made of record but not relied on is the patent to Puett showing a pertinent separator.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 571-272-4512, on Monday-Thursday, 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached at 571-272-4514. In lieu of mailing, it is encouraged that papers be faxed to 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov> or call the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kp  
April 5, 2005



KENNETH E. PETERSON  
PRIMARY EXAMINER